

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

PERMIT NO. 19-85(B)

(Issued on March 13, 1986, As
Amended through October 7, 1997)

AMENDMENT NO. NINE (Scotts)

(Exclusive of Amendment Nos. One through
Seven, portions of Amendment Nos. Eight and
Nine, and Amendment No. Ten)

Port of Oakland
P.O. Box 2064
Oakland, California 94604-2064

ATTENTION: Joseph K. Wong, Director of Engineering

AND

Scott's Jack London Seafood, Inc.
1719 Bonanza Street
Walnut Creek, California 94596

ATTENTION: Ray Gallagher

Ladies and Gentlemen:

On August 17, 1995, the San Francisco Bay Conservation and Development Commission, by a vote of 15 affirmative, 0 negative and 0 abstentions, approved Amendment No. Eight to which this corrected the original amended permit is hereby was issued. Moreover, on October 7, 1997, the Executive Director, pursuant to Regulation Section 10822, approved Amendment No. Nine to which this corrected amended permit is hereby issued:

I. Authorization

A. Subject to the conditions stated below, the permittees are granted permission to do the following in an approximately 4,500-square-foot area, immediately east of Scott's Restaurant in Jack London Square, in the City of Oakland, Alameda County:

1. Within the 100-foot shoreline band, construct and use the following:

- a. Use a dedicated public access plaza for the periodic, temporary installation and use of a 4,500-square-foot banquet tent as part of Scott's Restaurant through January 15, 1996, pursuant to Special Condition II-B-2 (Amendment No. Eight);
- b. Construct, use and maintain a 4,400-square-foot, 19 to 40-foot-tall pavilion for shared public and private use, pursuant to Special Condition II-B-2 (Amendment No. Eight);

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- c. Install cafe seating, benches, lighting, two sets of binoculars and other site furnishings within an existing 20,000-square-foot plaza (Amendment No. Eight);
- d. Install and maintain three permanent and two temporary public access directional signs as part of the pavilion project (Amendment No. Eight);

B. This amended authority is generally pursuant to and limited by your application of March 30, 1995 for Material Amendment No. Eight - the Public Pavilion, including all accompanying and subsequent amendments, exhibits, and correspondence thereto, but subject to the modifications required by the conditions herein. The applications for Amendment Nos. One and Two were withdrawn. The amended authority for the other activities in Jack London Square within the Commission's jurisdiction is generally pursuant to and limited by Corrected Amendment No. ~~Ten~~ Nine to Permit No. 19-85(A), including all accompanying and subsequent amendments, exhibits, and correspondence thereto, but subject to the modifications required by the conditions therein. ~~The application for Amendment No. Nine is still pending at this time.~~

C. The work authorized herein pursuant to Corrected Amendment No. Ten (Scotts) to Permit No. 19-85(B) has been completed.

D. This project (Amendment No. Eight - the Public Pavilion) modifies the use of 4,400 square feet of this public access by allowing periodic, exclusive, private use of a 4,400-square-foot public access pavilion constructed pursuant to this amendment.

II. Special Conditions

The amended authorization made herein shall be subject to the following special conditions, in addition to the standard conditions in Part IV:

A. Specific Plans and Plan Review

1. **Final Plan Review.** No work whatsoever shall be commenced pursuant to this amended permit until final precise site, engineering, grading, riprapping, architectural, landscaping, and any other relevant criteria, specifications, and plan information for that portion of the work have been submitted to, reviewed, and approved in writing by or on behalf of the Commission. The specific drawings and information required will be determined by the staff.
 - a. **Site, Architectural, and Landscaping Plans.** Site, architectural, and landscaping plans shall include and clearly label the 6.2-foot contour line above Mean Sea Level (the line of highest tidal action), the line 100 feet inland of the line of highest tidal action, property lines, the boundaries of all areas to be reserved for public access purposes and open space, grading, details showing the location, types, dimensions, and materials to be used for all structures, irrigation, landscaping, drainage, seating, parking, signs, lighting, fences, paths, trash containers, utilities, and other proposed improvements.

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- b. **Engineering Plans.** Engineering plans shall include a complete set of contract drawings and specifications and design criteria for all portions of the project to be built on fill. Final plans shall be signed by the professionals of record and be accompanied by evidence that the design complies with all applicable codes.

Plans submitted shall be accompanied by a letter requesting plan approval, identifying the type of plans submitted, the portion of the project involved, and indicating whether the plans are final or preliminary. Approval or disapproval shall be based upon:

- a. Completeness and accuracy of the plans in showing the features required above, particularly the line of highest tidal action, property lines, and the line 100 feet inland of the line of highest tidal action, and any other criteria required by this amended permit;
- b. Consistency of the plans with the terms and conditions of this amended permit;
- c. The provision of the amount and quality of public access to and along the shoreline and in and through the project to the shoreline required by this amended permit;
- d. Consistency with legal instruments reserving public access and open space areas;
- e. Assuring that any fill in the Bay does not exceed this amended permit; and
- f. Consistency of the plans with the recommendations of the Design Review Board.

Plan review shall be completed by or on behalf of the Commission within 45 days after receipt of the plans to be reviewed.

2. **Conformity with Final Approved Plans.** All work, improvements, and uses shall conform to the final approved plans. Prior to any use of the facilities authorized herein, the appropriate design professional(s) of record shall certify in writing that, through personal knowledge, the work covered by the amended permit has been performed in accordance with the approved design criteria and in substantial conformance with the approved plans. No noticeable changes shall be made thereafter to any final plans or to the exterior of any constructed structure, outside fixture, lighting, landscaping, signage, landscaping, parking area, or shoreline protection work without first obtaining written approval of the change(s) by or on behalf of the Commission.
3. **Discrepancies between Approved Plans and Special Conditions.** In case of any discrepancy between final approved plans and Special Conditions of this amended permit or legal instruments approved pursuant to this amended permit, the Special Condition or the legal instrument shall prevail. The permittees are responsible for assuring that all plans accurately and fully reflect the Special Conditions of this amended permit and any legal instruments submitted pursuant to this amended permit.

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4. **Conformity with Plans submitted with Application.** The pavilion authorized in Material Amendment No. Eight shall generally conform to plans entitled "Public Pavilion," prepared by Arcus Architecture and Planning, dated June 19, 1995, as modified through July 3, 1995. No material changes shall be made thereafter to these plans without first obtaining written approval of the change(s) by or on behalf of the Commission.

B. Public Access

1. **Area.** The approximately 4,400-square-foot area in the shoreline band as generally shown on Exhibit B shall be made available to the public for unrestricted public access for walking, sitting, viewing, picnicking, and related purposes as more specifically described in paragraphs II-B-2. If the permittees wish to use the public access area for other than those purposes expressly delineated in paragraph II-B-2, the permittees must obtain prior written approval by or on behalf of the Commission.
2. **Temporary Banquet Tent Pavilion and Use.**
 - a. **Temporary Banquet Tent Use.** Scott's Restaurant shall be allowed to use an approximately 4,500-square-foot portion of the approximately 23,000-square-foot dedicated public access plaza located between Scott's and Kincaid's Restaurants in Jack London Square between August 31, 1995 and January 15, 1996 for erecting a tent to house private banquets and other private events only as specified herein. Scott's Restaurant shall submit to and obtain approval by the Port of Oakland of a schedule of private banquets and other private events to be held. The approved event schedule shall be consistent with the parameters for scheduling specified in Exhibit A to this corrected amended permit. The tent shall be erected no sooner than 6 hours prior to an approved scheduled event and shall remain standing no longer than 12 hours following an approved scheduled event.
 - b. **Public Pavilion Use.** Scott's Restaurant shall be allowed to use the approximately 4,400-square-foot public pavilion located in the 23,000-square-foot, dedicated public access plaza lying between Scott's and Kincaid's Restaurants in Jack London Square for private events only as specified herein. Scott's Restaurant shall submit to and obtain approval by the Port of Oakland of a schedule of private events. Operation of the fabric panels enclosing the private events beneath the pavilion shall be consistent with the guidelines specified in Exhibit A to this amended permit. The public plaza site furnishings shall be restored immediately following each approved event, or if an approved event terminates after 10:00 PM, the site furniture shall be replaced by 9:00 AM of the following day. California Canoe and Kayak shall be allowed to occasionally use a small portion of the dedicated public access plaza for kayak rentals and classes. The racks for kayak display shall be maintained at the north end of the plaza consistent with the conceptual arrangement shown in Exhibit B to this amended permit.

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- c. **Event Schedule Reporting.** Scott's Restaurant shall provide the Port of Oakland with its first quarterly schedule for private events to be held in the pavilion at least 60 days prior to the first event. The events schedule shall not be approved by the Port of Oakland, unless it is consistent with the parameters for scheduling specified in Exhibit A to this amended permit. Subsequently, Scott's Restaurant's quarterly schedules shall be submitted to the Port of Oakland by January 1, April 1, July 1 and October 1 of each year. By March 1 of 1996 and March 1 of every year thereafter the Port of Oakland shall provide the Commission with a summary of the events scheduled for the previous year. The tent-covered event schedule shall be submitted to the Port of Oakland within 10 days of the issuance of corrected Amendment No. Eight to the BCDC Permit and shall be updated every three months until January 15, 1996.
 - d. **Violation.** The holding of a banquet or other private event within the pavilion or public access plaza not listed in the schedule of events, or the approval of a schedule of events that is inconsistent with the guidelines set forth in Exhibit A to this corrected amended permit shall be considered an activity undertaken without Commission authorization and subject to the schedule of standardized civil penalties described in Commission Regulation Sections 11302(2) and 11386(a)(3).
3. **Permanent Guarantee.** Prior to the commencement of construction of each phase of the project, the permittees shall, by instrument or instruments acceptable to counsel for the Commission, dedicate to a public agency or otherwise permanently guarantee such rights for the public to the public access areas within that phase to the extent the permittees are legally able to do so. The instrument(s) shall create rights in favor of the public which shall commence no later than after completion of construction of any public access improvements required by this amended permit and prior to the use of any structures authorized herein. Such instrument shall be in a form that meets recordation requirements of Alameda County and shall include a legal description of the property being restricted and a map that clearly shows the line of highest tidal action, the property being restricted for public access, the legal description of the property and of the area being restricted for public access, and other appropriate landmarks and topographic features of the site, such as the location and elevation of the top of bank of any levees, any significant elevation changes, and the location of the nearest public street and adjacent public access areas. Approval or disapproval of the instrument shall occur within 30 days after submittal for approval and shall be based on the following:
- a. Sufficiency of the instrument to create legally enforceable rights and duties to provide the public access area required by this amended permit;
 - b. Inclusion of an exhibit to the instrument that clearly shows the area to be reserved with a legally sufficient description of the boundaries of such area; and
 - c. Sufficiency of the instrument to create legal rights in favor of the public for public access that will run with the land and be binding on any subsequent purchasers, lessees, licensees and users.

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4. **Recordation of the Instrument.** Within 60 days after approval of the instrument, the permittees shall record the instrument and shall provide evidence of recording to the Commission. No changes shall be made to the instrument after approval without the express written consent by or on behalf of the Commission.
5. **Improvements Within the Public Access Area.** The permittees shall install the following improvements:
 - a. A 4,400-square-foot, L-shaped pavilion (see Exhibits B) with a translucent fiberglass roof material consistent with awnings in Jack London Square, three sets of four steel columns supporting a tubular steel truss roof-frame with light fixtures attached providing fifteen vertical-feet clear from the existing plaza, a revised paving pattern using pavers which match existing pavers and reflect the shape of the pavilion, tivolli lighting, grade-level up-lighting, fabric panels with transparent window panels located at the perimeter of the pavilion roof, and colorful flags and banners which do not include the names of any business or product. Signs on the pavilion towers shall be neon and shall read "Public Pavilion" only;
 - b. Two sets of permanent, pedestal style binoculars for public use free of charge; ~~and~~
 - c. At least four additional public access signs, two permanent and two temporary to facilitate shoreline public access between Franklin Street and Broadway on the Bay side of Scott's Restaurant. The temporary signs shall be installed and removed when approved private events are held. One public access sign shall be installed at the entrance to the gangway leading to the kayak launch float that describes the rules and hours for public use of the kayak launch float; ~~and~~
 - d. At least 15 tables and 35 chairs which are designed to match the existing cafe seating at the Barnes and Noble bookstore, to be in placed at all times, except when the pavilion is needed for approved private events or other approved public events;

Such improvements shall be consistent with the plans approved pursuant to Special Condition II-A of this amended permit.

6. **Maintenance.** All areas and improvements required by Special Condition II-B-5, including hardscape, landscaping, signs, and public paths shall be permanently maintained by, and at the expense of, the permittees, any assignee, lessee, sublessee, or other successor in interest to the project. Maintenance shall include, but not be limited to, repairs to all path and hardscape surfaces, replacement of any plant material that dies or becomes unkempt, repairs or replacement as needed of benches, trash containers, signage and irrigation devices, restoration of any shoreline or other area that becomes eroded or damaged by wave action, storm, or other deterioration, and assuring that public access signs remain in place and visible. Within 90 days after notification by staff of the Commission, the permittees or any successor or assignee shall correct any maintenance deficiency noted by the staff.

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7. **Reasonable Rules on Use of Public Access Areas.** The permittees may impose reasonable rules on the use of the areas required to be provided for public access provided such rules are first approved by or on behalf of the Commission and do not significantly affect the public nature of the area nor unreasonably burden public use.

C. **Assignment.** The permittees may make a full or partial assignment to the rights and/or duties under this amended permit provided that the assignee is acceptable to the Commission. The assignment shall be made in writing and clearly indicate which portions are assigned and which portions remain unassigned. Any assignee shall sign a written statement to the effect that he or she has read and understands the conditions of this amended permit and agrees to be bound by all terms and conditions hereof.

D. **Permit Recording.** The permittees shall record this amended permit or a notice referring to this amended permit with the County of Alameda within 60 days after execution of this amended permit and shall provide evidence of recording to the Commission.

III. Findings and Declarations

A. **Use.** San Francisco Bay Plan Map No. 4 does not designate the project site for any priority uses but a note on the map states: "JACK LONDON SQUARE. Expand commercial recreation facilities as needed. Provide continuous public access along Estuary to Lake Merritt Channel." The use of the site for the public pavilion authorized in corrected Amendment No. Eight is considered commercial recreation development which will provide for continuous shoreline access is therefore consistent with the Bay Plan. Please see the discussion under "public access" below for more detail.

B. **Fill.** No fill is authorized in the project for the public pavilion authorized in corrected Amendment No. Nine ~~Ten~~ (Scotts) to Permit No. 19-85(B).

C. **Public Access.** Section 66602 of the McAteer-Petris Act states that: "...existing public access to the shoreline and waters of the...[bay]...is inadequate and that maximum feasible public access, consistent with a proposed project, should be provided...."

The Bay Plan policies on public access state, in part, that public access should be provided in and through every new development, including ports, except in cases where the public access would be inconsistent because of public safety considerations. Further, the Bay Plan states a small amount of fill may be allowed if the fill is the minimum necessary to develop a project in accordance with the requirements to provide public access.

The project authorized in corrected Amendment No. Nine ~~Ten~~ (Scotts) to Permit No. 19-85(B) modifies the design and use of the existing, dedicated public access plaza lying between Kincaid's and Scott's Restaurants in Jack London Square. This amendment authorizes the construction of a 4,400-square-foot pavilion in the plaza to be used for public access purposes eighty percent of each year (292 days) and for private events hosted by Scott's Restaurant twenty

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percent of each year (73 days). The periodic, private use of the public access space for private events will eliminate the public's access to a significant portion of the plaza for approximately 20 percent of each year. In addition, the covering of the public access space could reduce the public character of the plaza, thereby discouraging the public's use of the plaza.

The site for the public access pavilion is part of a large (32,300-square-foot), L-shaped, public space which receives relatively little public use, in part because its primary function is as a service vehicle access to the two restaurants and retail shops. The lack of activities fronting on the plaza combined with the service vehicle activity significantly diminish the value of the plaza as a public space. The California Canoe and Kayak rental and sales business has significantly enlivened this plaza with its colorful kayaks and the activity generated by frequent classes and canoe and kayak rentals. However, the backs of buildings generate little life in plazas. Approximately 290 feet of the 330 feet of walls framing this plaza are the rear or service entry of the buildings, while only 40 feet are fronts.

The introduction of the pavilion could generate activities in the plaza which do not occur there now because of the existing building and use configuration. The private banquet events may bring people to Jack London Square who would not otherwise visit the shoreline and it may serve as a catalyst for future visits to the Square and will likely generate additional sales for other businesses in the Square. The pavilion will also be used by other, more public events which require cover or protection from inclement weather, including the Farmers' Market, art shows, product displays and boat show displays.

Corrected Amendment No. Nine ~~Ten~~ (Scotts) to Permit No. 19-85(B) authorizes the private use of the public pavilion for twenty percent of the time or up to seventy-three calendar days per year. Special Condition II-B-2 requires that this private use be scheduled consistent with the guidelines specified in Exhibit A to this amended permit. The scheduling guidelines define two types of use periods: (1) May through October will be the higher public use period; and (2) November through April will be the lower public use period. There are approximately one-hundred-and-six weekend days each year or approximately nine weekend days per month. During the higher public use period (May through October), the private events are limited to a maximum of three weekend days per month on-average, with six weekend days required for public use. There is a minimum requirement of three weekend days per month free of private events. This allows the permittees to exceed the three events per month limit, but requires that it meet the overall requirement by having fewer events in subsequent months during the higher use period. During the lower public use period (November through April), the permittees are allowed to schedule up to four private events per month on weekend days, on average, and will be required to reserve at least five weekend days on average for public use. The permittees are required to provide a minimum of three public-use weekend days per month, and must average the private use to conform with the four-day-per-month average allotment. The total event allotment for one year is seventy-three. The Commission finds that the private event use will not adversely impact the public's use and enjoyment of the plaza, provided that the schedule of events approved by the Port adheres to the guidelines specified in Exhibit A to this amended permit.

The Commission's public access design guidelines state, in part, that: "public access should generally be open to the sky...be designed to be usable by the greatest number and diversity of people, including the physically handicapped." The project will provide a covered, open outdoor

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area for all users of the wharf. The towers will be visible above the adjacent buildings to attract passersby from a distance and signal users to explore the waterfront. The open-truss structural system allows for longer spans with less intermediate supports, thus preserving views of the Bay. The structure does not significantly impede existing shoreline access nor will it unduly interfere with the existing access to the wharf edge. The proposed pavilion will have a minimal impact on existing view corridors and sight lines of the Oakland Estuary. The feeling of openness achieved through the use of slender structural columns and the open truss system will minimize sight line obstructions. The project will modify the existing paving pattern to coordinate with the outline of the proposed structure. The Design Review Board noted that the existing paving pattern directs one's eye along the existing view corridor to the ships on the opposite shore. The revised paving pattern will preserve this feature to the greatest extent feasible.

The pavilion will be supported by columns similar in color and shape to pedestrian scale lighting in the square, will be outfitted with neon signs atop the towers naming the structure "Public Pavilion" and the paving pattern in the plaza will be modified to reflect the overhead pavilion while utilizing paving materials consistent with the existing paving. However, the covering of the public access space could reduce the public character of the plaza, thereby discouraging the public's use of the plaza. The periodic, private use of the public access space for private events will eliminate the public's access to a significant portion of the plaza for approximately twenty percent of each year. The proposed pavilion will be situated to provide an unobstructed, 34-foot-wide view corridor from Water Street to the estuary approximately 80 percent of the time when the facility is open for public use. The existing view corridor width through this plaza is approximately 57 feet wide. The authorized pavilion design will maintain an 18-foot-wide view corridor through the plaza to the shoreline during private events. Special Condition II-B-5 requires the installation of binoculars for public use, benches, flags, lighting, and cafe seating to furnish the pavilion, enhancing its utility to the public for daily use.

The Commission finds that the public access improvements sufficiently offset the potential for the pavilion to privatize the existing plaza and that these enhancements will improve overall the public's use and enjoyment of the existing plaza so that the net effect of the project, given the periodic unavailability of the plaza, will result in an overall enhancement of the public access. The Commission finds that the design of the proposed pavilion will be sufficiently congruous with and complements the existing development in the area and will enhance the public's use of the existing dedicated public access areas. The Commission also finds the proposed view corridor adequately preserves views of the Estuary and Alameda shoreline. The Commission also finds that the private use is incidental to the public access use, is in keeping with the character of the area and will not unduly obstruct public access to and enjoyment of the Bay. The Commission finds therefore, that the authorized pavilion construction and private use of the public access area will contribute to the public's use and enjoyment of a public access area which is currently underutilized. Finally, the Commission finds that the public access required in this amended permit will provide the maximum feasible public access, consistent with the original Jack London Square project as modified through corrected Amendment No. Eight to this permit.

Corrected Amendment No. ~~Nine Ten~~ (Scotts) to Permit No. 19-85(B) authorizes, on a temporary basis, tent-covered banquet use of the dedicated public access plaza until January 15, 1996. At the time that the Port first proposed the tent use to the staff in April of 1993, the staff had concerns that approving the tent use on a permanent basis would be inconsistent with the

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requirements of amended BCDC Permit No. 19-85 and with the Commission's Bay Plan policies on public access. Moreover, after viewing the plaza with the tent in it, the staff determined that the tent effectively blocked the existing view corridor from Water Street out to the estuary and the Alameda shoreline. However, the Commission finds that authorizing the temporary continuation of the temporary, periodic tent use will not unreasonably detract from the public's current, limited use and enjoyment of the area, because the tent use is only temporary in nature and under the existing conditions, the public's use of the area is limited.

At the request of the original permittee, the Port of Oakland, and its tenant Scott's Jack London Seafood, Inc., the Commission issued a revised corrected Amendment No. ~~Nine~~ Ten (Scotts) to Permit No. 19-85(B) has to incorporated Scott's Jack London Seafood, Inc., as a co-permittee for that portion of the project that is included within its leasehold. The rights, duties, and obligations of Scott's Jack London Seafood, Inc., with regard to this amended permit are limited to the area leased by Scott's Jack London Seafood, Inc., from the Port of Oakland. As a co-permittee, the Port of Oakland will also be jointly and severally liable for full compliance with all terms and conditions of the permit that apply to the leasehold area. Beyond the leasehold area, only the Port will be liable for full compliance with all terms and conditions of the permit.

Corrected Amendment No. Nine to Permit 19-85(B) simply adds Special Condition II.B.5.d to this permit (Scott's). This special condition was included in the original authorization of the Public Pavilion (Amendment No. Eight), but was inadvertently omitted when the permit was separated into 19-85(A) and 19-85(B).

D. Water Quality. The construction, use and maintenance of the public pavilion authorized in corrected Amendment No. Ten (Scotts) to Permit No. 19-85(B) to this permit will not contribute to or affect water quality at the site above or beyond the existing public access uses which exist on and adjacent to the site.

E. Public Trust. The project area was granted to the City of Oakland by the State to be used for public trust purposes. Therefore, the lands have to be administered in accordance with the trust grant. The tidal area within the Commission's jurisdiction will be used for a marina, a water-oriented use, or for improving shoreline appearance and public access. Therefore, the Commission finds that the proposed project is consistent with public trust needs.

F. Environmental Review. On March 22, 1995, the Port of Oakland determined that the project authorized in corrected Amendment No. Eight to this permit was exempt from the requirement to prepare an environmental report on the project, citing Sections 15303 (e) and 15304 (e) of the California Environmental Quality Act (CEQA), Classes 3 and 4.

G. Conclusion. For all of the above reasons, the benefits of the project clearly exceed the detriment of the loss of water areas and the project will provide maximum feasible public access to the Bay and its shoreline. Therefore, the project is consistent with the San Francisco Bay Plan, the McAteer-Petris Act, the Commission's Regulations, and the coastal management program for San Francisco Bay.

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IV. Standard Conditions

A. All required permissions from governmental bodies must be obtained before the commencement of work; these bodies include, but are not limited to, the U. S. Army Corps of Engineers, the State Lands Commission, the Regional Water Quality Control Board, and the city and/or county in which the work is to be performed, whenever any of these may be required. This amended permit does not relieve the permittees of any obligations imposed by State or Federal law, either statutory or otherwise.

B. The attached Notice of Completion and Declaration of Compliance form shall be returned to the Commission within 30 days following completion of the work.

C. Work must be performed in the precise manner and at the precise locations indicated in your application and amendment requests, as such may have been modified by the terms of the amended permit and any plans approved in writing by or on behalf of the Commission.

D. Work must be performed in a manner so as to minimize muddying of waters, and if diking is involved, dikes shall be waterproof. If any seepage returns to the Bay, the permittees will be subject to the regulations of the Regional Water Quality Control Board in that region.

E. The rights, duties, and obligations contained in this amended permit are assignable. When the permittees transfer any interest in any property either on which the authorized activity will occur or which is necessary to the full compliance of one or more conditions to this amended permit, the permittees/transferor and the transferee shall execute and submit to the Commission a permit assignment form acceptable to the Executive Director. An assignment shall not be effective until the assignee executes and the Executive Director receives an acknowledgment that the assignee has read and understands the amended permit and agrees to be bound by the terms and conditions of the amended permit, and the assignee is accepted by the Executive Director as being reasonably capable of complying with the terms and conditions of the amended permit.

F. Unless otherwise provided in this amended permit, all the terms and conditions of this amended permit shall remain effective for so long as the amended permit remains in effect or for so long as any use or construction authorized by this amended permit exists, whichever is longer.

G. Unless otherwise provided in this amended permit, the terms and conditions of this amended permit shall bind all future owners and future possessors of any legal interest in the land and shall run with the land.

H. Unless otherwise provided in this amended permit, any work authorized herein shall be completed within the time limits specified in this amended permit, or, if no time limits are specified in the amended permit, within three years. If the work is not completed by the date specified in the amended permit, or if no date is specified, within three years from the date of the amended permit, the amended permit shall become null and void. If this amended permit becomes null and void for a failure to comply with these time limitations, any fill placed in reliance on this amended permit shall be removed by the permittees or their assignee upon receiving written notification by or on behalf of the Commission to remove the fill.

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(Issued on March 13, 1986, As
Amended through October 7, 1997)

AMENDMENT NO. NINE (Scotts)

(Exclusive of Amendment Nos. One through Seven, portions of
Amendment Nos. Eight and Nine, and Amendment No. Ten)

Port of Oakland and Scott's Jack London Seafood, Inc.

Page 12

I. Except as otherwise noted, violation of any of the terms of this amended permit shall be grounds for revocation. The Commission may revoke any amended permit for such violation after a public hearing held on reasonable notice to the permittees or their assignee if the amended permit has been effectively assigned. If the amended permit is revoked, the Commission may determine, if it deems appropriate, that all or part of any fill or structure placed pursuant to this amended permit shall be removed by the permittees or their assignee if the amended permit has been assigned.

J. This amended permit shall not take effect unless the permittees execute the original of this amended permit and return it to the Commission within ten days after the date of the issuance of the amended permit. No work shall be done until the acknowledgment is duly executed and returned to the Commission.

K. Any area subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission under either the McAteer-Petris Act or the Suisun Marsh Preservation Act at the time the permit is granted or thereafter shall remain subject to that jurisdiction notwithstanding the placement of any fill or the implementation of any substantial change in use authorized by this amended permit.

L. Any area not subject to the jurisdiction of the San Francisco Bay Conservation and Development Commission that becomes, as a result of any work or project authorized in this amended permit, subject to tidal action shall become subject to the Commission's "bay" jurisdiction.

M. Unless the Commission directs otherwise, this amended permit shall become null and void if any term, standard condition, or special condition of this amended permit shall be found illegal or unenforceable through the application of statute, administrative ruling, or court determination. If this amended permit becomes null and void, any fill or structures placed in reliance on this amended permit shall be subject to removal by the permittees or their assignee if the amended permit has been assigned to the extent that the Commission determines that such removal is appropriate. Any uses authorized shall be terminated to the extent that the Commission determines that such uses should be terminated.

Executed at San Francisco, California, on behalf of the San Francisco Bay Conservation and Development Commission on the date first above written.



WILL TRAVIS

Executive Director

San Francisco Bay Conservation and
Development Commission

SAM/NS/vm

GUIDELINES FOR PRIVATE USE OF PUBLIC PAVILION

Permit No. 19-85--Exhibit E

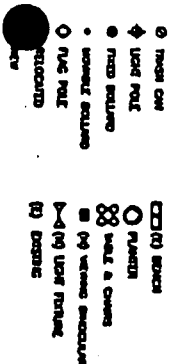
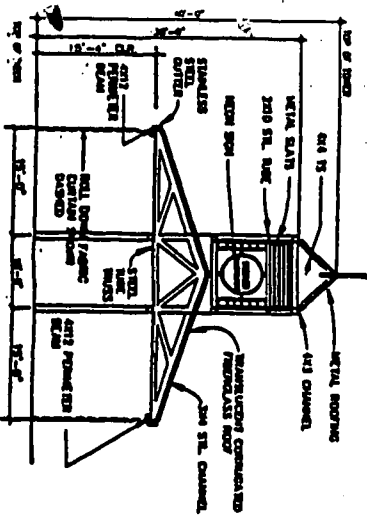
	Public Use of the Pavilion	Private Use of the Pavilion	Percentage of Private Use of Pavilion during high use periods (weekend days/nights)
Percentage of use per year.	80%	20%	
Number of days available per year for use of the public pavilion.	292	73	
No. of weekend days/nights* to be made available for use of the Pavilion on average per month from May through October	6	3	33%
Minimum no. of weekend days/nights for Public Use in any month	3		
No. weekend days/nights* to be made available for use of the Pavilion on average per month from November through April	5	4	40%

Permit No. 19-85(B)
Amendment No. Nine
Exhibit A

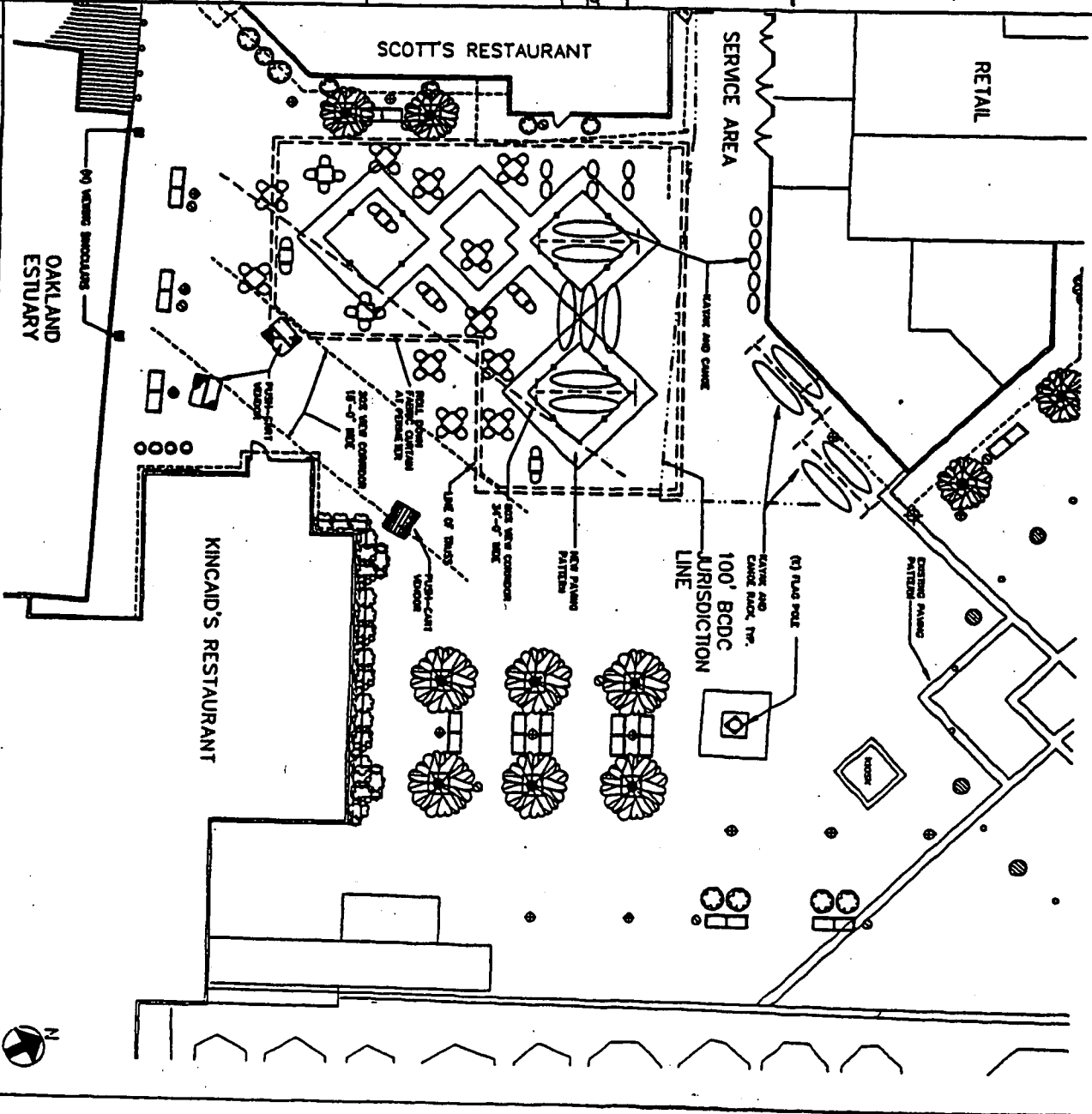
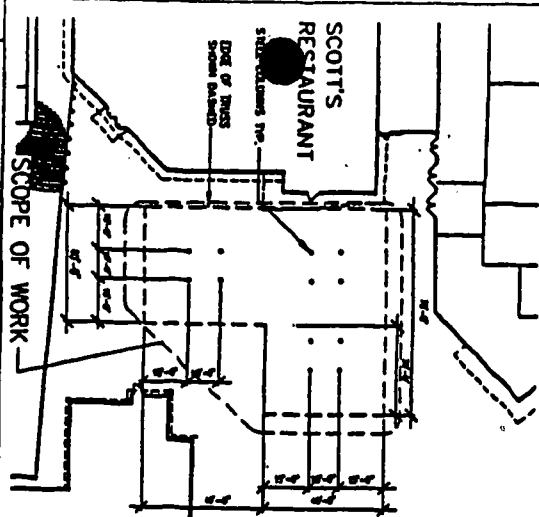
*weekend nights = Friday and Saturday; weekend days = Saturday and Sunday

1. Scott's will submit a quarterly calendar of proposed private events for Port approval. The events calendar will include a time estimate of each individual event, including set-up and take-down times consistent with each event.
2. The Port will transmit a copy of the approved quarterly events calendar to BCDC staff for its information.
3. The Port will closely monitor the use of the pavilion for private events to ensure compliance with the 20-percent maximum private use limit.
4. The Port will not approve more than two consecutive private events at any time.
5. Scott's will coordinate with the Port's Marketing Director to eliminate conflicts between private events and any public events.
6. Scott's will not lower the fabric curtains prior to one (1) hour before a private event and will retract the curtains within one (1) hour after a private event.
7. Scott's will be responsible for the repair and maintenance of the pavilion structure, the outdoor tables and chairs and the binoculars.
8. Scott's will be responsible for the daily clean-up of the area beneath the pavilion structure.
9. The Port, Scott's and BCDC staff will review these guidelines within six (6) months of the first private event to determine if additional guidelines are necessary.

3 SITE PLAN



1 PAVILION PLAN



Permit No. 19-85(B)
Amendment No. Nine
Exhibit B

No.	Revision	By
1	FOR CONCRETE	SR
2	1/1/75	

Job No. 9427D
 Date 1/1/75
 Drawn by
 Checked by
 Sheet Title

SITE PLAN
 TOWER SECTION 1 &
 DIMENSION PLAN

Job No. 9427D Date 10/1/78
 Drawn by W. J. Smith Checked by W. J. Smith
 Sheet Title Sheet 1 of 1

**SITE PLAN
TOWER SECTION &
DIMENSION PLAN**

SK-2 or 4 post

LAIRIE

PERMIT NO. 19-85(B)

(Issued on March 13, 1986, As
Amended through October 7, 1997)

AMENDMENT NO. NINE (Scotts)

(Exclusive of Amendment Nos. One through Seven, portions of
Amendment Nos. Eight and Nine, and Amendment No. Ten)
Port of Oakland and Scott's Jack London Seafood, Inc.

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RECEIVED
OCT 17 1997

SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

cc: U. S. Army Corps of Engineers, Attn: Regulatory Functions Branch
San Francisco Bay Regional Water Quality Control Board,
Attn: Certification Section
Environmental Protection Agency, Attn: Mike Monroe, W-3-3
City of Oakland, Attn: Planning & Building Department

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at Oakland, CA Port of Oakland
Applicant
On October 15, 1997 By: [Signature]
Director of Environment
Title

* * * * *

Receipt acknowledged, contents understood and agreed to:

Executed at Oakland, CA Scott's Jack London Seafood, Inc.
Applicant
On October 15, 1997 By: [Signature]
Director of Operations
Title

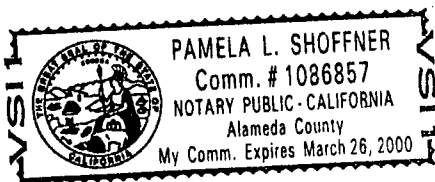
State of California

County of Alameda

On Oct. 15, 1997 before me, Pamela Shoffner, Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Joseph Wong
NAME(S) OF SIGNER(S)

☒ personally known to me - **OR** - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Pamela L. Shoffner
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☒ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

BCDC Permit #19-85(b)
TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

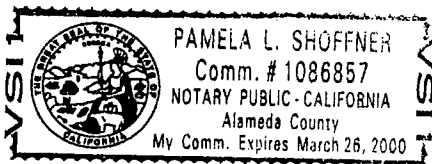
State of California

County of Alameda

On Oct 15 1997 before me, Pamela Shoffner, Notary Public
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared Michael Stagg
NAME(S) OF SIGNER(S)

☐ personally known to me - OR - ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



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Pamela Shoffner
SIGNATURE OF NOTARY

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